IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 174 OF 2002.

1. Mr. Ramesh G. Narulkar;
2. Mr. Sharad Agarwadekar;
3. Mr. Anant Karpe;
4. Mr. Milind S. Kubal;
5. Mr. Sandesh Kerkar;
   All working as Station
   Operators, Electricity
   Department. ... Petitioners.

Versus

1. State of Goa through
   Secretary, Ministry
   of Power, Secretariat,
   Panaji.
2. The Chief Electrical Engineer,
   Vidyut Bhavan, Panaji. ... Respondents.

Mr. S.D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe, Advocate for the Petitioners.

Mr. S.R. Rivonkar, Government Advocate for the Respondents.

Coram : F.I. REBELLO AND
P.V. HARDAS, JJ.

Date : 4th August 2003.

ORAL JUDGMENT (PER REBELLO, J.)

The petitioners are working as Station Operators in the Electricity Department of the Government of Goa. It is their case that the post of Station Operator in the Electricity Department came to be created for the first time in the year 1983. The pay scale made applicable to the post was Rs. 260-400. The qualifications were also set out. It is pointed out that there are other posts in the Electricity Department of Meter Mechanics and Wireless Mechanics, for which the Recruitment Rules provide for identical qualifications.

The pay scale made applicable to the post was, however, Rs. 380-560. The place where they work and the nature of the work is, thereafter, set out in the various averments. It is also pointed out that the duties attached to the posts of Meter Mechanics and Wireless Mechanics are not in anyway comparable, though are placed in a higher pay scale. It is also pleaded that the duties performed by Station Operators are akin to some higher posts in the Electricity Department. The Recruitment Rules it is set out created anomaly situation by providing for a lesser pay scale for the post of Station Operator. On account of this, various representation were made to the Authorities. In fact the Department strongly recommended that the pay scale of Station Operators be revised from Rs. 260-400 to Rs. 380-560 which in terms of the IVth Pay Commission would be Rs. 1320-2040. It is then pointed out that the Anomaly Committee set up by the Government also agreed and recommended that the pay scale of Station Operators be revised on par with Meter Mechanics and Wireless Mechanics. By Order, dated 24th December 1999, the Government accorded sanction to the revision of pay scales of Station Operators in the Electricity Department to Rs. 4000-100-6000 as per the Vth Pay Commission corresponding to pay scale of Rs. 1320-2040.

2. The grievance of the petitioners is that the

revision in pay scale is made effective only from 24th December 1999, the date of the Order and not from the date of creation of the posts and the same is arbitrary and illegal. There are many other averments, which need not be dealt with. The petitioners therefore pray that the respondents be directed to make applicable the pre-revised pay scales from the date of creation of the post, that is, from the year 1983 and under the subsequent Pay Commission, viz., IVth and Vth Pay Commissions.

A reply has been filed on behalf of the respondent no. 1. It is averred that the petitioners are not entitled for revision of their pay scales from the date of creation of the posts of Station Operators from the year 1983. It is then set out as to when the posts were created and the Recruitment Rules were framed. The averments by the petitioners regarding the nature of work have been contested. It is then pointed out that the scales recommended by the Administrative Reforms Department at the time of creation of the posts were approved by the Finance Department and, thereafter, the recruitment was made. Dealing with the report of the Anomaly Committee, it is pointed out that considering the representations made by the Station Operators, it was referred to the Anomaly Committee. Pursuant to representations made in the year 1987, the

Anomaly Committee had rejected the representations. The Government had, however, once again referred the matter to the Anomaly Committee and only after a second reference the Anomaly Committee recommended the revision of scales. It is then pointed out that considering the recommendations and the grievances of the Station Operators and the financial burden, the revision was made with effect from 24th December 1999. There are other averments which need not be adverted to.

3. From the affidavit of respondent no.1 it is clear that on representations by Station Operators on the IVth Pay Commission recommendations being accepted, the matter was placed before the Anomaly Committee and the Anomaly Committee did not recommend the same. The representations on the coming into force of the Vth Pay Commission were once again referred to the Anomaly Committee. The Anomaly Committee accepted the representations and directed the anomaly to be removed. The Government, however, gave effect to it from 24th December 1999.

4. The question really is whether after the State Government had accepted the recommendations of the Vth Pay Commission with modifications and had left the issue on anomaly to be decided separately, was it open to the respondent State Government to refuse to give to the

petitioners and other Station Operators similarly situated in the Electricity Department the pay scale with effect from 1st January 1996? The fact that there was an anomaly in the pay scale was accepted would mean that the Station Operators would be entitled to the pay scale from 1st January 1996. The Order was made on 24th December 1999. The petitioners have come to this Court as late as on 24th June 2002. It is no doubt pointed out on behalf of the petitioners that the petitioners had not approached this Court as they had made representations to the Chief Electrical Engineer and that was under consideration.

5. In our opinion, therefore, the only direction that can be given to the respondents is to place the petitioners in the pay scale with effect from 1st January 1996 and to put them in an appropriate pay on the said date and accordingly pay them the pay on 24th December 1999 without paying any arrears upto 24th December 1999.

In the instant case, the decision had been taken by the State Government based on the acceptance of the report of the Anomaly Committee. It was open to the State Government to have accepted the report of the Anomaly Committee from a particular date and pass appropriate Orders. In the instant case, the State

Government has accepted the report of the Anomaly Committee. We find that no reason as to why the benefit should not be given of placing the petitioners in the time scale from 1st January 1996. It is true that the respondents normally ought not to raise the plea of limitation against their own employees. However, the affidavit of the Government sets out that the view of confirming the pay scales was taken in view of the financial burden on the State.

6. In the light of that Rule made absolute inasmuch as the respondents are directed to place the Station Operators in the Electricity Department in the time scale of Rs. 4000-6000 with effect from 1st January 1996 and to, accordingly, step them up in proper pay in the time scale as and upto 24th December 1999 and thereafter to pay to them the arrears with effect from 24th December 1999 till actual payment. It is made clear that from 1st January 1996 till 24th December 1999 the difference will not be paid. There shall be no order as to costs.

(F.I. REBELLO)
JUDGE.

(P.V. HARDAS)
JUDGE.

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